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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,463	10/16/2003	Mary Griffin	27539-306316	3068

27496 7590 02/23/2005

PILLSBURY WINTHROP LLP
725 S. FIGUEROA STREET
SUITE 2800
LOS ANGELES, CA 90017

EXAMINER	
HAN, JASON	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/688,463	GRIFFIN, MARY	
	Examiner	Art Unit	
	Jason M Han	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☒ Claim(s) *6,7,11,12,20,21,23,26 and 27* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 March 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/8/2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Page 5 – Page 9, Line 26 should be placed in a Summary of the Invention or Background of the Invention. Below is an excerpt of the content for a Detailed Description.

Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the

elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

Appropriate correction is required.

3. The disclosure is further objected to because of the following informalities:

a. Page 9, Line 13: Typographical error – "To join to rigs" should read as "To join two rigs";

Appropriate correction is required.

Claim Objections

4. Claim 23 is objected to because of the following informalities: In limitation (a)(2), please rewrite to read "moving means" or of similar nature. Appropriate correction is required.

5. Claim 26 is objected to because of the following informalities: Grammatical error – please rewrite to read – "the plurality of sets is arranged". Appropriate correction is required.

6. Claims 6, 7, 11, 12, 20, 21, and 27 is objected to because of the following informalities: Grammatical error – please rewrite to read – "the plurality of sets (that) is constructed". Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 1-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-5 and 24-27 of U.S. Patent No. 6676275. Although the conflicting claims are not identical, they are not patentably distinct from each other because both refer to a set lighting system with the only difference being the second limitation with respect to moving the system (the patent being broader in scope).

It also would have been obvious to include means for adjusting the horizontal dimensions of the framework, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). In this case, adjustability to the horizontal dimensions can provide better control and angle of illumination.

8. Claims 8-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 6 and 28-31 of U.S. Patent No. 6676275. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate multiple frameworks, since it has been held that mere duplication of the essential working parts of a device involves

only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, multiple horizontal frames could be implemented from different heights and angles of illumination on the set.

9. Claims 14-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 6-12 and 28-31 of U.S. Patent No. 6676275. Although the conflicting claims are not identical, they are not patentably distinct from each other because both refer to a set lighting system with minor differences, notably the number of horizontal frameworks, which is considered an obvious matter of duplication of parts. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, multiple horizontal frames could be implemented from different heights and angles of illumination on the set.

It also would have been obvious to include means for adjusting the horizontal dimensions of the framework, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). In this case, adjustability to the horizontal dimensions can provide better control and angle of illumination.

10. Claims 23-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 44-51 of U.S. Patent No. 6676275. Although the conflicting claims are not identical, they are not patentably distinct from each other because both refer to a set lighting system with minor differences, notably the number of horizontal frameworks, which is considered an obvious matter of duplication of parts. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In this case, multiple horizontal frames could be implemented from different heights and angles of illumination on the set.

It also would have been obvious to include means for adjusting the horizontal dimensions of the framework, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). In this case, adjustability to the horizontal dimensions can provide better control and angle of illumination.

11. Claims 34-48 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 13-23 and 32-43 of U.S. Patent No. 6676275. Although the conflicting claims are not identical, they are not patentably distinct from each other because both refer to a set lighting system with minor differences, notably the number of horizontal frameworks, which is considered an obvious matter of duplication of parts. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, multiple horizontal frames could be implemented from different heights and angles of illumination on the set.

It also would have been obvious to include means for adjusting the horizontal dimensions of the framework, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). In this case, adjustability to the horizontal dimensions can provide better control and angle of illumination.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application, but are not considered exhaustive:

US Patent 2659038 to Heyer;

US Patent 4837665 to Hoyer et al;

US Patent 5008967 to Barrios et al;

US Patent 5278742 to Garret;

US Patent 5551199 to Hayes et al;

US Patent 4392187 to Bornhorst;

US Patent 4980806 to Taylor et al;

US Patent 5237792 to Oberman et al;

US Patent 5406176 to Sugden;

US Patent 5993030 to Barcel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (2/14/2005)

JOHN ANTHONY WARD
PRIMARY EXAMINER